

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-744 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing of main case.

23.11.2020.

Mr. Sameeullah Rind, advocate along with applicants.
Ms. Sobia Bhatti, A.P.G for the State.
Mr. Mushtaque Ahmed Abbasi, advocate a/w
complainant.
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Irshad Ali Shah J;- It is alleged that the applicants with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object on account of collection of Chanda for installation of Solar light in Sidra Masjid caused Iron rod and sharp cutting weapon injuries to PWs Imran, Sharik and Bilal with intention to commit their murder and then went away by threatening complainant Jamaluddin of murder, for that the present case was registered.

2. The applicants on having been refused pre arrest bail by learned IIIrd Additional Sessions Judge, Hyderabad have sought for the same from this Court by way of instant application u/s 498 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy their dispute with

them over collection of Chanda; the FIR has been lodged with delay of about one month; there is counter version of the incident (FIR Crime No.184 of 2020 PS A-Section Latifabad); the investigation of the case is over and applicants have joined the trial. By contending so, he sought for pre-arrest bail for the applicants on point of further enquiry and malafide. In support of his contention he has relied upon cases of *Abdul Razzaq and others vs The State (2005 MLD 902)*, *Ghulam Sarwar vs The State (2005 MLD 1079)*, *Faiz Ahmed vs The State and another (2018 MLD 915)*, *Noor Muhammad vs The State and another (2018 P.Cr.L.J 928)* and *Israr Razzak vs The State (2017 YLR 242)*.

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to grant of pre arrest bail to the applicants by contending that they have actively participated in commission of incident. In support of their contention they have relied upon cases of *Muhammad Qasim and 2 others vs The State (2010 YLR 780)* and *Muhammad Iqbal vs The State (2006 YLR 2876)*.

5. I have considered the above arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about one month; such delay could not be overlooked; there is counter version of the incident. Whether injuries to the injured were caused with intention to commit their murder? It requires

determination at trial. Parties are already disputed over collection of Chanda. The case has finally been challaned. In that situation, a case for grant of pre-arrest bail in favour of applicants on point of malafide and further inquiry is made out.

7. The case law which is relied upon by learned counsel for the complainant and learned A.P.G for the State is on distinguishable fact and circumstances. In none of the case law so relied upon there is counter version of the incident.

8. In view of above, the interim pre-arrest bail already granted to the applicants is confirmed on same terms and conditions.

9. The instant bail application is disposed of accordingly.

JUDGE

